IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2022

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

WP.No.15252 of 2022
and
WMP.No.14424 of 2022

M/s.Shiva Steels,
Rep. by its Proprietor G.Sivakumar Kiradoo
No.44, 18th Street,
Sandayankuppam, Burma Nagar,
Chennai-600 013. ... Petitioner

Vs

The Assistant Commissioner (ST),
Thiruvottiyur Assessment Circle,
Room NO.215, 2nd Floor,
Integrated Commercial Taxes Complex,
Chennai-600 003. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified mandamus, calling for the records of the impugned proceedings of the respondent in TIN: 33161102457/2012-13 dated 19.08.2021 and quash the same and direct the respondents to refund Rs.2,59,994/- which was illegally collected from the bank and then pass further orders as this Court may deem fit and proper in the facts and circumstances of the case.

For Petitioner : Mr.S.Raveekumar

For Respondents : Mr.V.Prashanth Kiran
Government Advocate

ORDER

Mr.V.Prashanth Kiran, learned Government Advocate accepts notice for the respondent and is armed with instructions to proceed with the matter finally even at the stage of admission. Hence, by consent of both learned counsel, this Writ Petition is disposed finally even at the stage of admission.

2. The challenge in this matter is to an assessment framed under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act'). Though the assessment is dated 18.08.2021, there appears to be no dispute on the position that the order has been received by the petitioner on 23.03.2022 after a request was made by the petitioner pursuant to recovery proceedings that had been initiated. Hence, this Writ Petition is not hit by laches and is held maintainable.

3. On merits, the issue relating to Input Tax Credit (ITC) as claimed by the petitioner was rejected on the ground that the claims were not genuine as determined by the authority after cross verification of the particulars in regard to the transactions at the end of the selling/purchasing dealers.

4. There has been some dispute on whether the petitioner has been granted an effective opportunity in this matter. The first notice that was sent is dated 01.12.2014 and the second is dated 02.06.2020. The petitioner appears to have changed its address pending assessment and thus would submit that notices ought to have been issued to the present addresses as reflected in the GST

registration certificate.

5.I am not inclined to go into this aspect of the matter simply for the reason that admittedly neither of the notices issued conform with the requirements under Circular No.21 of 2021 dated 28.12.2021, whereunder the Special Commissioner/Commissioner of Commercial Taxes has set out a detailed procedure to be followed by the Assessing Authority in the framing of assessments requiring cross-verification of claims of ITC.

6.The impugned order of assessment is thus set aside and the petitioner is permitted to appear before the Assessing Authority on 30.06.2022 at 10.30 a.m. without expecting any notice in this regard. The petitioner will treat the impugned order of assessment as a show cause notice and shall be furnished all particulars as set forth in the Circular when he appears for the hearing. He shall therefore be afforded opportunity to make his submissions and heard. The assessment shall be completed within a period of twelve (12) weeks from date of personal hearing by way of a speaking order.

7.This writ petition stands disposed as above. No costs. Connected miscellaneous petition is closed.

20.06.2022

vs
Index : Yes/No
Speaking Order/Non speaking Order

DR.ANITA SUMANTH,J.

vs

To

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